

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Authorization to Recover Costs Incurred in 2004 and Recorded in the Bark Beetle Catastrophic Event Memorandum Account.

Application 05-12-018
(Filed December 16, 2005)

**FINAL OPINION
GRANTING SOUTHERN CALIFORNIA EDISON COMPANY
RECOVERY OF 2004 BARK BEETLE COSTS**

A. Summary

This decision grants Southern California Edison Company (Edison) the authority it requests to recover the incremental costs incurred in 2004 for a Bark Beetle infestation.

B. Background

Southern California has experienced a prolonged drought, and its overstocked forests have had an infestation of Bark Beetles. This resulted in approximately 13 to 15 million dead, dying and diseased trees in the San Bernardino National Forest. These millions of dead, dying, and diseased trees created a hazard to the people and property in communities served by Edison. In addition, these trees posed a significant hazard to Edison's electrical facilities that serve these communities. Because of the potential fire hazard, on March 7, 2003, then-Governor Davis issued a State of Emergency Proclamation (2003 Emergency Proclamation) for the counties of Riverside, San Bernardino, and San Diego. Subsequently, on January 6, 2005, Governor Schwarzenegger

issued a Proclamation extending the 2003 Emergency Proclamation to include affected areas of Los Angeles County.

Under the Commission's existing practices these proclamations allowed Edison to invoke the Catastrophic Event Memorandum Account (CEMA) in accordance with Pub. Util. Code § 454.9, and Resolution E-3238 that allows a regulated utility an opportunity to recover any reasonable costs to address the event provided that the costs are incremental to existing allowances in rates.¹

Resolution E-3238 ordered that a CEMA could record costs for:

“(a) restoring utility services to customers; (b) repairing, replacing or restoring damaged utility facilities; and (c) complying with governmental orders in connection with events declared disasters by competent state or federal authority.” (*Mimeo.*, p. 5.) The March 7, 2003 Bark Beetle declaration included a request: “...that the Public Utilities Commission direct utility companies with transmission lines in Riverside, San Bernardino and San Diego Counties to ensure that all dead, dying and diseased trees and vegetation are completely cleared from their utility right-of-ways to mitigate the potential fire danger.”² Thus, the Bark Beetle CEMA responds to the requirement (c) above, to comply with a governmental order, to remove dead, dying and diseased trees and vegetation from the utility right-of-ways.

On June 3, 2004, Edison submitted its first Bark Beetle related filing, Advice Letter 1801-E, requesting recovery of \$18.08 million of costs recorded in

¹ In Advice Letter 912-E, the Commission authorized Edison's CEMA in accordance with Resolution E-3238, effective September 6, 1991.

² <http://www.gov.ca.gov/index.php?/archive/proclamations>.

the Bark Beetle CEMA for the period April 3, 2003 through December 31, 2003. On September 23, 2004, the Commission issued Resolution E-3880 approving Advice Letter 1801-E, with modification, including the requirement to file subsequent requests as an application.

Edison now requests that the Commission (1) find as reasonable the \$129.5 million of incremental Operations and Maintenance (O&M) expenses recorded in its Bark Beetle CEMA for the period January 1, 2004 through December 31, 2004; and (2) authorize the transfer of the December 31, 2004 balance in the Bark Beetle CEMA O&M Cost Subaccount of \$130.5 million, including interest, to the Distribution Subaccount of the Base Revenue Requirement Balancing Account for recovery in rates. The account breakdown is as follows:

2004 Bark Beetle Catastrophic Event Memorandum Account (\$Millions)	
O&M Incremental Costs	
Project Management	\$1.230
Stakeholder Communications	0.219
Mitigation Inspection	0.335
Tree Removal	92.937
Other Operational Costs	5.789
Property Owner Reimbursement Related Costs	28.984
Total O&M Incremental Costs	\$129.494
Interest	1.046
Ending Balance - O&M Cost Subaccount	\$130.540

(Source: Application, p. 5.	
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C. Procedural history

Notice of this applications appeared in the Commission's Daily Calendar on December 21, 2005. The Division of Ratepayer Advocates, (DRA) protested the application on January 20, 2006 and Edison replied on January 30, 2006. The Commission preliminarily categorized the application as ratesetting in Resolution ALJ 176-3165, dated January 12, 2006. The March 3, 2006 scoping ruling confirmed the categorization as ratesetting, and the need for hearings. As modified by a March 22, 2006 ruling, the scoping memo required a mandatory settlement conference on or before July 14, 2006, in advance of any intervenor testimony, scheduled for service on July 28, 2006. Subsequently, the assigned Administrative law Judge (ALJ) allowed Edison and DRA a delay to file a joint motion on August 11, 2006, pursuant to Rule 51 *et seq.*, requesting the adoption of a settlement, which is discussed below.³ Ultimately, no hearings were required on the settlement.

The record in this proceeding is composed of all documents filed and served on parties. It also includes all testimony and exhibits received into evidence.⁴

³ The Settlement is attached as Attachment 1.

⁴ There was 1 exhibit received into evidence on the ALJ's own motion – Edison's December 16, 2005 prepared testimony, served with the application.

D. Scope and Issues

The purpose of this proceeding is to determine whether the costs expended in 2004 responding to the Bark Beetle infestation were reasonable and prudent.

E. Standard of Review

The applicant alone bears the burden of proof to show that the rates it requests are just and reasonable and the related ratemaking mechanisms are fair. In order for the Commission to consider a proposed settlement as being in the public interest, the Commission must be convinced that the parties had a sound and thorough understanding of the application and all of the underlying assumptions and data included in the record. This level of understanding of the application and development of an adequate record is necessary to meet our requirements for considering any settlement, as discussed below.

F. Discussion of the Settlement or Stipulation**a. Standard for Approval of a Settlement**

Rule 51.1(a) provides:

Parties to a Commission proceeding may stipulate to the resolution of any issue of law or fact material to the proceeding, or may settle on a mutually acceptable outcome to the proceeding, with or without resolving material issues. Resolution shall be limited to the issues in that proceeding and shall not extend to substantive issues which may come before the Commission in other or future proceedings.

Rule 51.1(e) has, as a further requirement:

The Commission will not approve stipulations or settlements, whether contested or uncontested, unless the stipulation or

settlement is reasonable in light of the whole record, consistent with law, and in the public interest. (Emphasis added.)

In short, we must find the settlement comports with Rule 51.1(e) which requires a stipulation to be “reasonable in light of the whole record, consistent with law, and in the public interest.” We address below how the settlement meets these three requirements.

b. Reasonable in Light of the Whole Record

We have reviewed the evidence in the record, considered the scope and thoroughness of the review by the only other active party, DRA, and find that the outcome is reasonable based on the record before us.

The parties inform us in the motion and settlement on the scope of DRA’s review and conclusions for this proceeding:

DRA found that [Edison] demonstrated that it exercised reasonable care to minimize all of its bark beetle related costs, adequately controlled the work performed by contractors, and complied with the Commission’s requirements for catastrophic event memorandum accounts. ...

The Settlement Agreement represents a reasonable result which is supported by DRA’s findings after having conducted an extensive investigation of the Application. (Motion, pp. 3 & 6.)

This statement, whereby DRA stipulates that it believes Edison’s costs are reasonable, in conjunction with our own review of Edison’s application, allow us to find that Edison met its burden of proof and therefore, its 2004 costs for the Bark Beetle CEMA are reasonable and prudent.

c. Consistent with Law

Nothing in the settlement is inconsistent with the law, and the settlement process was consistent with Rule 51 *et seq.* Therefore we can find DRA's stipulation and settlement with Edison to be consistent with applicable law.

d. In the Public Interest

The Bark Beetle infestation is a public nuisance and therefore any reasonable actions by Edison to remove diseased and dying trees in its rights-of-way are in the public interest. DRA's examination found Edison's actions to be acceptable and therefore did not propose any ratemaking adjustments. We also find that DRA had the necessary sound and thorough understanding of the application to settle with Edison. Therefore we find the settlement is in the public interest.

G. Assignment of Proceeding

John Bohn is the assigned Commissioner and Douglas M. Long is the assigned ALJ. (*See* Rule 5(l).)

H. Comment on Proposed Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Findings of Fact

1. The Edison settlement is uncontested because DRA has stipulated that Edison's CEMA practices and its Bark Beetle activities were reasonable. There was no other active party.

2. Edison incurred the Bark Beetle costs in response to a declared state of emergency to remove dead, dying and diseased trees and vegetation from the utility right-of-ways.

3. DRA performed a sufficient review to have an informed basis for its stipulation and settlement with Edison.

4. The settlement resolves all of the issues identified in DRA's protest.

5. Edison's 2004 costs for the Bark Beetle infestation were reasonable.

Conclusions of Law

1. The disaster declarations issued by the Governors Davis and Schwarzenegger constitute events declared to be a disaster by competent state or federal authorities for purposes of § 454.9.
2. Use of the CEMA for recording and recovering the costs incurred by Edison to address the Bark Beetle infestation is appropriate under the statute. Use of the CEMA for recording and recovering the costs incurred by Edison to address the 2004 Bark Beetle infestation is appropriate under the statute and Resolution E-3238.
3. Rule 51 *et seq*, should be used to review the settlement agreement which delineates the stipulation by DRA.
4. The settlement met the criteria for settlements and stipulations under Rule 51 *et seq*.
5. The costs incurred by Edison in its Bark Beetle program were reasonable.
6. Under Rule 51.8 the adoption of the proposed settlement creates no precedent.
7. The settlement does not contravene or compromise any statutory provision or Commission decision, and is consistent with law.
8. The settlement is in the public interest.

FINAL ORDER

IT IS ORDERED that:

1. The settlement in Application (A.) 05-12-018, attached hereto as Attachment 1, is adopted.
2. Southern California Edison Company (Edison) shall transfer the balance in the Bark Beetle Catastrophic Event Memorandum Account to the Distribution Subaccount of the Base Revenue Requirement Balancing Account for recovery in rates.
3. No hearings are necessary in this proceeding.
4. A.05-12-018 is closed.

This order is effective today.

Dated _____, at San Francisco, California.